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Veterans: Banished and Betrayed

"Banished veterans." The phrase shouldn't make sense. Someone joins the military, fights in a war, returns home, and then is banished? Thankfully, this can't happen here...

But it is happening here. Thousands of men and women who have risked their lives in the country's wars have been deported or are living under the threat of deportation because they committed non-violent crimes that often wouldn't warrant serving jail time. Many of these vets suffered from Post Traumatic Stress Disorder (PTSD), a condition often overlooked by our nation's health care system.

These vets can be deported because they are not U.S. citizens. Gabriel Delgadillo, a Vietnam veteran, committed a burglary in 1988. Eight years later, burglary was declared a deportable offense. Only then, in a retroactive application of the new law, was he deported, leaving behind a wife and seven children. Sen. Patrick Leahy (D-Vermont) officially deplored Delgadillo's deportation in May, 1999, stating:

These harsh new measures have now snared immigrants who spilled their blood for our country. As the INS prepares to deport these American veterans, we have not even been kind enough to thank them for their service with a hearing to listen to their story and consider whether, just possibly, their military service or other life circumstances outweigh the government's interest in deporting them.

Robyn Sword, an activist on behalf of banished vets whose fiance, Rohan Coombs, is facing deportation for drug offenses, pointed out in an interview that many people simply can't get past the image of a "convicted felon." Who wants them here, right? That might be understandable in cases of violent crime but such an attitude is inexcusable when applied to most banished veterans.

Rep. Bob Filner (D-Calif.), Chairman of the House Committee on Veterans Affairs, sums up the dilemma that faces so many veterans:

We sent these kids to war - and war has affected their mental and psychological condition. Providing support for returning veterans is an obligation we owe to those who have sacrificed so much for our country.

But the courageous Leahy and Filner aside, you won't find many politicians willing to risk being called "soft on criminal aliens" - even if they were willing to send those men and women into combat. But the knee-jerk sound-bite reaction doesn't capture the truth of the situation.

PTSD is devastating and plays a role in many of these veterans' legal problems. Veterans Administration hospitals are overwhelmed with PTSD cases. The great majority of arrested vets with PTSD have families and friends, jobs, aspirations, and struggles just like everyone else. Half of all Vietnam vets suffering from PTSD have been arrested. Labels might cast them as pariahs, but by now we should be smart and compassionate enough to know that many different paths lead to arrest and that an arrest doesn't define one's humanity.

No one is claiming PTSD as an "excuse" for someone who commits a non-violent crime, but it is a cause. Nor are any of the banished vets claiming PTSD as a reason for not facing their punishment under the law. They were busted, went to court, served their time. In California, grand theft means stealing $400 or more and is a deportable offense; DUI is also a deportable felony in many states. Felons deserve punishment according to the law. *But banishment goes far beyond the bounds of a reasonable sentence.* It is absolute in scope, and psychologically cruel. Yet we still insist on betraying people who instead deserve our thanks and the support of whatever social services it takes to support them as citizens, as equals in American society.

Craig Shagin, a Harrisburg, PA immigration lawyer and author of the book, *Deporting Private Ryan*, describes a client who at 17 years old got into a fist fight in school in Georgia and was given a one year suspended sentence. Eleven years later, after military service, he was arrested for an even lesser offense, but because of the fighting conviction, he became subject to deportation. Had the fist-fight occurred in many other states, he would have gotten probation and would not have been deported. Vets have been deported for registering their neighbors' cars under their own names, adultery, smoking marijuana (now legal in many states), stealing two chickens, and shoplifting. As Shagin states, "The courts are reading the regulations of the statute...in a hyper-minimalist way and without any consideration for the historical antecedents for what a national is." A "national" is a non-citizen who owes allegiance to the U.S. and in return receives legal protections, including immunity from deportation. Every member of the armed forces has taken such an oath of allegiance and one can argue that legally every veteran is a "national" and hence not subject to deportation; inexplicably, the courts have not seen it that way.

At least not since 1996. That year, the Republican Congress passed - and then President Bill Clinton signed - the Immigration and Naturalization Act which drastically expanded the list of crimes for which one could be deported. Shagin points out that before 1996, there were virtually no cases of veterans being deported. Before 1996, the courts routinely considered one's veteran's status as a reason to bar deportation even for the most serious crimes and virtually none were deported. No longer. Since 1996, estimates of the numbers of deported vets are in the 30,000 to 40,000 range, although no one knows for sure: the exact figures have never been released.

It gets worse. Jan Ruhman, a San Diego ex-Marine with two tours of duty in Vietnam who is now a leading advocate for banished vets, notes that the 1996 law was written with entrapment in mind. Offenders are often faced with a choice of two plea-bargains with differing jail sentences, for instance, a three-year or a one-year sentence. Naturally, he or she takes the one-year sentence. Because of technicalities written into the 1996 law, it is often the *lesser charge* that results in deportation. Many criminal lawyers are unaware of the implications for immigrants of these lesser pleas, and both Ruhman and Shagin are convinced that the law was written to entrap

as many immigrants as possible into making the wrong choice. This is quite likely, as the law also states that judges have *no* discretion in deportation cases. They cannot consider a person's veteran, family, work, or health status. Such considerations are a mainstay of our legal system and it was malicious of Congress to apply such a standard to a specific group across a wide range of minor offenses.

This wouldn't be the case were the vets granted citizenship. And it turns out that's exactly what they were promised by their recruiters. They were already legal permanent non-citizen residents with green cards, as required for joining the armed forces. As Sword points out, army recruiters target low-income immigrant neighborhoods, and most of these recruits were *promised* by recruiters that they would receive citizenship *because* they signed up for military duty. The armed forces, in effect, lied to them and the military sure hasn't had these veterans' backs when the empty promises led to deportation from the country for which they risked their lives. In fact, if they had died in battle, they would have been qualified to receive a full-scale military burial, coffin draped in an American flag, and a 21-gun salute. But alive they are castaways.

There's another deadly wrinkle to all this. Deported vets who served in Iraq and Afghanistan include immigrants from the Middle East. When they are sent back there, they run a serious risk of becoming targets of revenge. In some countries, having served in the U.S. armed forces could lead to a loss of citizenship, and any country that subscribes to the International Criminal Court could prosecute those vets for war crimes.

In the end, the banished vets are "just" a bunch of forgotten ex-soldiers, but fate has seen to it that they're not only to be forgotten, but removed entirely from the nation they served. Director of Homeland Security Napolitano should order an immediate stay of deportation for all vets currently living in the shadow of this cruel and unusual punishment. President Obama constantly pays lip-service to his respect for the men and women of our armed forces. He speaks eloquently of their sacrifice. He plans to send another 30,000 more into Afghanistan. But does his concern extend to this forgotten class of soldiers? Will he show his supporters that he has the courage of his rhetoric? Please, take it upon yourself to call upon President Obama and Congress to grant citizenship and restore the right to live in the United States to these banished and betrayed veterans of our country's wars.

More information can be found at http://banishedveterans.intuitwebsites.com.